

REMARKS

DRAWINGS

For purposes of clarity, Applicant has amended the FIG. 1 to add reference numeral 44. This amendment is in accordance with 37 C.F.R. 1.84 and is reflected in the Replacement Sheet submitted herewith. Applicant respectfully requests admission of new FIG. 6. FIG. 6 has been added to illustrate the pivoting door 42 pivoted in the upward direction as recited in the specification as originally filed at paragraph 28.

The amendment to FIG. 1 and the submission of FIG. 6 do not add new matter within the meaning of 35 U.S.C. § 132. It is respectfully requested that this amendment and FIG. 6 be entered.

FIG.1 as originally filed clearly depicts the hinge as recited in the claims. Furthermore, claims 1, 11 and 16 have been amended and no longer recite that the hinge is disposed upstream to the movable plate.

In view of the foregoing, Applicant respectfully requests that the objections to drawings be withdrawn.

SPECIFICATION

The cylinder 44 is depicted in new FIG. 1 submitted herewith. Accordingly, Applicant respectfully requests that the objection to the specification be withdrawn.

STATUS OF THE CLAIMS

Claims 1-20 are pending. Claim 1 has been amended to recite that the plate is pivotally mounted by a hinge to the material inlet. Claim 1 has been further amended to delete the recitation of the hinge being positioned upstream to the movable plate. Similarly, claim 16 has been amended to recite that the plate is mounted to a material inlet and to delete the objected to

“upstream” recitation. Claim 11 has been amended to recite a material inlet means to which the plate is mounted via a hinge. Claims 11 has also been amended to delete the recitation of the hinge being positioned upstream to the movable plate.

Accordingly, no new matter has been added by these amendments and no estoppels are intended thereby.

Reconsideration and withdrawal of the outstanding rejections is respectfully requested in view of the following remarks.

OFFICE ACTION

REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 1, 11 and 16 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctively claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection.

For purposes of clarity, claim 1 has been amended to recite *said movable* plate pivotally mounted by a hinge, which refers to the movable plate recited in line 4 of claim 1. Applicant therefore submits that sufficient antecedent basis exists for the recited feature.

Without conceding the propriety of the rejection, the recitation of the hinge disposed upstream relative to the movable plate has been deleted from claims 1, 11 and 16 rendering this rejection moot. In addition, the recitation of “at which said at least one position” has been deleted from claims 1, 11 and 16 rendering this rejection moot. Accordingly, Applicant respectfully requests that this § 112 rejection of claims 1, 11 and 16 be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 102(b)

(1) Claims 1-4, 6-8 and 11-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hanson (U.S. Pat. No. 3,917,236). Applicant respectfully traverses this rejection.

Applicant notes that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (quoting *Verdegall Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)).

Without conceding the propriety of the prior art rejection, each of independent claims 1 and 16 have been amended herein to recite that the plate is pivotally mounted by a hinge to the material inlet while independent claim 11 has been amended to recite that the plate is pivotally mounted to the material inlet means. Hanson fails to disclose at least this aspect of the claims.

Turning to Hanson, this patent discloses a movable gate 46. However, FIG. 4 illustrates that the hinge EX2, is mounted to the frame work 11 and not the material inlet. Accordingly, Applicant respectfully submits Hanson does disclose each and every element of claims 1, 11 and 16 and therefore fails anticipate these claims. Claims 2-4 and 6-8 depend from claim 1 while claims 12-15 depend from claim 11 and claims 17-20 depend from claim 16. Applicant respectfully submits that these dependent claims are allowable for at least the same reasons stated above.

Accordingly, Applicant respectfully requests that this § 102(b) rejection of claims 1-4, 6-8 and 11-20 be withdrawn.

(2) Claims 1, 9 and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Stock et al. (U.S. Pat. No. 4,257,518). Applicant respectfully traverses this rejection.

Claim 1, and therefore claims 9 and 10, recite that the plate is pivotally mounted by a hinge to the material inlet. Like Hanson, Stock fails to recite this aspect of the claims. Stock illustrates a leveling bar 65 carried on pivot 64 that is not attached to the inlet 11. See, for example, FIG. 1 of the Stock patent. Thus, Applicant respectfully submits that Stock does not teach or suggest a plate that is pivotally mounted by a hinge to the material inlet as recited by the

claims. Accordingly, for at least these reasons, Applicant respectfully requests that this § 102(b) rejection of claims 1, 9 and 10 be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 103(a)

(1) Claim 5 stands rejected under 35 U.S.C. § 103 (a) as being allegedly unpatentable over Hanson (U.S. Pat. No. 3,606,260).

To establish a prima facie case of obviousness, the prior art references must teach or suggest all of the claim elements. M.P.E.P. § 2143. There must also be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references. *Id.* Applicant respectfully submits that these criteria for obviousness have not been satisfied.

With respect to teaching or suggesting all the claim limitations, Hanson is completely silent with respect to the recited plate pivotally mounted by a hinge to the material inlet (as previously discussed in connection with the 102 (b) rejections of the Office Action) as recited by claim 5. Therefore Applicant respectfully submits that a prima facie case of obviousness has not been established. Accordingly, Applicant respectfully requests that this § 103 (a) rejection be withdrawn.

In view of the foregoing, reconsideration and allowance of the application are believed in order, and such action is earnestly solicited.

Entry of the Amendment after Final Rejection is requested. The Amendment is believed to overcome the pending rejections. No substantial new matter is added and no new issues are believed to be raised. No additional claims are presented.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned attorney at 202/861-1714.

Respectfully submitted,

BAKER & HOSTETLER LLP

A handwritten signature in black ink, appearing to read "Stephen S. Fabry", written in a cursive style.

Stephen S. Fabry
Registration No. 51,661

Attachment – Drawing replacement sheet

Date: August 25, 2003
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Tel. 202 861 1500
Fax. 202 861 1783